



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0032]

RIN 1625- AA00

Safety Zone; Lake Pontchartrain, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the vicinity of the South shores of Lake Pontchartrain adjacent to the East bank of the Lakefront Airport runways in New Orleans, Louisiana. This temporary safety zone is necessary to protect persons and vessels from the potential safety hazards associated with high-speed aerobatic displays by the participants of the 1812 Blue Angels Air Show, during the War of 1812 Commemoration.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: You may submit comments identified by docket number USCG-2010-0012 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Commander (LCDR) Marcie Kohn, Sector New Orleans, Coast Guard; telephone 504-365-2281, e-mail Marcie.L.Kohn@uscg.mil. If you have questions on viewing or submitting material to the

docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0032), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address,

or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2012-0032" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0032" and click "Search." Click the "Open Docket Folder" in the "Actions" column.

You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Marcie Kohn at the telephone number or e-mail address indicated under the FOR FURTHER INFORMATION CONTACT section of this notice.

Basis and Purpose

In conjunction with the War of 1812 Commemoration celebrations taking place in the city of New Orleans, the Coast Guard has received an application request for a marine permit in support of the Blue Angels Air Show, to take place over the waters of Lake Pontchartrain. The Blue Angels Air Show is scheduled to take place scheduled to occur daily between the hours of 10 a.m. and 5 p.m, beginning April 19, 2012 through April 22, 2012. The request calls for a safety zone to be created over the Lake to accommodate the air show participants with an aerobatic display box. The Coast Guard has determined that the safety zone is necessary to protect persons and vessels from the potential safety hazards associated with the high speed aerobatic displays of the air show participants.

Discussion of Proposed Rule

The Coast Guard proposes a temporary safety zone extending approximately 3,000' from the South shores of Lake Pontchartrain, adjacent to the East bank of the Lakefront

Airport runways. This temporary safety zone is necessary to protect persons and vessels from the potential safety hazards associated with high speed aerobatic displays from the participants of the Blue Angels Air Show. There will be a 12,000' X 3,000' aerobatic display area, which requires the surface of the water to be sterile of non-participants. The Blue Angels Air Show is scheduled to take scheduled to occur daily between the hours of 10 a.m. and 5 p.m, beginning April 19, 2012 through April 22, 2012. The coordinates for the aerobatic display area are as follows:

SE corner: N 30* 02' 07.71" & W 90* 01' 53.56"

SW corner: N 30* 02' 07.71" & W 90* 04' 10.05"

NW corner: N 30* 02' 38.37" & W 90* 04' 10.05"

NE corner: N 30* 02' 38.37" & W 90* 01' 53.56"

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning

and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

The impacts on routine navigation are expected to be minimal because the proposed enforcement periods are short in duration. Additionally, closure of the Inner Harbor Navigation Canal entrance to Lake Pontchartrain, in support of the Seabrook Surge Barrier construction project by the Army Corps of Engineers, restricts the majority of commercial traffic. As a result, the proposed safety zone will have minimal impact, if any, on the area which is used primarily by recreational boaters.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are

independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 7 hours daily during the Air Show display. The small entities that may be affected include small entities engaged in the business of recreational boating in the area or other marine traffic in the area. Vessel traffic could pass safely around the safety zone. If you are a small business entity and are significantly affected by this regulation please contact Lieutenant Commander (LCDR) Marcie Kohn, Sector New Orleans, at 504-365-2281 or e-mail Marcie.L.Kohn@uscg.mil.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why

you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Marcie Kohn. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems

practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves establishing a safety zone and as such is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction. A preliminary "Environmental Analysis Check List" supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-0032 to read as follows:

§ 165.T08-0032 Safety Zone; Lake Pontchartrain, New Orleans, LA

(a) Location. The following area is a temporary safety zone: All waters on the South shores of Lake Pontchartrain adjacent to the East bank of Lakefront Airport runways, extending along the Southern banks of the Lake, and including the Inner Harbor Navigational Canal entrance to Lake Pontchartrain. The coordinates are:

latitude 30° 02' 38.37" N, longitude 90° 01' 53.56" W to latitude 30° 02' 38.37" N, longitude 90° 04' 10.05" W to latitude 30° 02' 07.71" N, longitude 90° 04' 10.05" W to

latitude 30° 02' 07.71" N, longitude 90° 01' 53.56" W.

(b) Effective Dates. This rule is effective beginning April 19, 2012 through April 22, 2012, daily between the hours of 10 a.m. and 5 p.m., local time.

(c) Regulations. (1) In accordance with the general regulations in 33 CFR part 165, Subpart C of this title, entry into this zone is prohibited unless authorized by the Captain of the Port New Orleans. The Captain of the Port New Orleans may be contacted at (504) 365-2543.

(2) Vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port New Orleans, or a designated representative. They may be contacted on VHF 16, or by telephone at (504) 365-2543.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port New Orleans and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: February 1, 2012

P. W. Gautier,
Captain, U.S. Coast Guard
Captain of the Port New Orleans.

[FR Doc. 2012-3870 Filed 02/17/2012 at 8:45 am; Publication Date: 02/21/2012]